

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

HENRY FORD HEALTH SYSTEM,  
and HENRY FORD HEALTH  
SYSTEM RETIREMENT SAVINGS  
PLAN, and HENRY FORD HEALTH  
SYSTEM PENSION PLAN, and  
HENRY FORD HEALTH SYSTEM  
HERITAGE 403(b) PLAN,

Case No. 2:19-cv-10643-TGB-DRG

District Judge Terrence G. Berg  
Magistrate Judge David R. Grand

Interpleader Plaintiffs,

-vs-

ERIKA HERBERHOLZ, a resident of  
Ontario, Canada, and JAMES ALLEN  
JANSEN, individually, a resident of  
Ontario, Canada, and JAMES ALLEN  
JANSEN, as executor of the ESTATE  
OF ERNA ELIZABETH  
HERBERHOLZ, deceased,

**DEFAULT JUDGMENT**

Interpleader Defendants.

ERIKA (HERBERHOLZ) JOHNSON,  
a resident of Ontario, Canada,

Cross-plaintiff,

-vs-

JAMES ALLEN  
JANSEN, individually, a resident of  
Ontario, Canada, and JAMES ALLEN  
JANSEN, as executor of the ESTATE  
OF ERNA ELIZABETH  
HERBERHOLZ, deceased,

Cross-defendants.

And

AMBER MAE DALGLEISH, et al,

Intervenor defendants, Cross-  
plaintiffs,

-VS-

JAMES ALLEN JANSEN, individually  
and as Executor of the ESTATE OF  
ERNA ELIZABETH HERBERHOLZ,  
deceased,

Interpleader defendants, cross-  
defendants,

And

ANTON HERBERHOLZ and  
ANNA HERBERHOLZ

Intervenor defendants, Cross-  
plaintiffs,

-VS-

JAMES ALLEN JANSEN,  
individually,

Interpleader defendant,  
cross-defendant.

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### **DEFAULT JUDGMENT**

This matter having come before the Court on the Cross-Plaintiffs' Motions for entry of a default judgment (ECF Nos. 48, 49 and 50), each of which were unopposed and with the Court having considered same, the arguments therein and the presentations of the parties hereto who appeared at open hearing on November 4,

2019 in Court, and with the Court being otherwise fully advised in the premises, the Court finds that;

1. Henry Ford Health System, *et al* filed a Complaint for interpleader relief against the Estate of Erna Elizabeth Herberholz, Erika Herberholz and James Allen Jansen on March 5, 2019. (Document #3)

2. When Erna Herberholz died, the Henry Ford Health System Retirement Savings Plan, the Henry Ford Health System Pension Plan and The Henry Ford Health System Heritage 403(b) plan administered by Empower Retirement all held the funds for the benefit of Erna Herberholz and plaintiff was fearful there might be more than one claimant. The plans were attached to the Complaint, and each plan sets out the methodology for determining the beneficiary of funds held by each plan.

3. For the Henry Ford Health System Retirement Savings Plan, the potential recipients were James Jansen and Erika Johnson.

4. For the Henry Ford Health System Pension Plan, the potential recipients were James Jansen and the Estate of Erna Herberholz.

5. For the Henry Ford Health System Heritage 403(b) Plan, the potential recipients were James Jansen and Anton and Anna Herberholz.

6. Erika (Herberholz) Johnson was served on March 12, 2019. (Document 9) James Jansen and the Estate of Erna Herberholz were served on March 14, 2019. (Documents #10 & 11)

7. Erika Johnson timely filed her answer to the Complaint on April 16, 2019. (Document #15)

8. Erika Johnson filed her crossclaim against James Jansen and the Estate of Erna Herberholz on April 16, 2019. (Document #16)

9. James Jansen and James Jansen as the fiduciary of the Estate of Erna Herberholz were served by personal service on April 26, 2019. A certificate of service was filed on May 13, 2019. (Documents #17 & 18)

10. Erika Johnson filed a request for clerk's entry of default as to James Jansen on May 24, 2019, and the clerk entered the default the same day. (Document #19 & 20). The request and the entry of default were served on James Jansen and the Estate of Erna Herberholz by mail on May 28, 2019. (Document #27)

11. Motions to intervene were filed by Amber Mae Dalglish, *et. al.* and Anna & Anton Herberholz on May 28, 2019. (Documents #21 & 22)

12. An order granting the motions to intervene was filed on June 28, 2019. (Document #24)

13. Crossclaims were filed by Amber Mae Dalglish, *et. al.*, and Anna & Anton Herberholz on July 2, 2019. (Documents #25 & 26). James Jansen and the Estate of Erna Herberholz were served by personal service on July 3, 2019. (Documents #28, 35, & 36)

14. Amber Mae Dalglish, *et. al.*, and Anna & Anton Herberholz filed an answer to the complaint on July 10, 2019. (Documents #29 & 30) James Jansen and the Estate of Erna Herberholz were served by mail on July 10, 2019. (Documents #46, & 47)

15. Henry Ford, *et. al.*, filed a request for Clerk's entry of default as to James Jansen and the Estate of Erna Herberholz on July 12, 2019. (Documents #31 & 32) The Clerk entered the default the same day. (Documents #33 & 34)

16. A notice to appear by telephone was set on July 24, 2019. To take place on August 12, 2019 at 10:45 AM. (Document #37)

17. Amber Mae Dalglish, *et. al.*, and Anna & Anton Herberholz filed requests for Clerk's entry of default against James Jansen and the Estate of Erna Herberholz on July 26, 2019. (Documents #38, 39, & 40)

18. The Clerk entered these defaults on July 29, 2019. (Documents #41, 42, & 43)

19. The requests for Clerk's entry of default and the Clerk's entry of the default were served by mail on James Jansen and the Estate of Erna Herberholz on July 31, 2019. (Document #44)

20. Mr. Jansen died on August 5, 2019.

21. By August 29, 2019, Peter Conway had learned that the Unifor Legal Services Plan would be representing Mr. Jansen's estate. So, he had a telephone

conference with Barbara Jaques at the Plan offices discussing the Henry Ford litigation.

22. Erika Johnson, Amber Mae Dalglish, *et. al.*, and Anna & Anton Herberholz filed motions for default judgment as to James Jansen on September 13, 2019. (Documents #48, 49, & 50). Barbara Jaques at Unifor Legal Services was served with these documents by mail on September 13, 2019. (Documents #48, 49, & 50)

23. On September 18, 2019, this Court issued a notice of hearing for the motions for default judgment. (Document #51). Barbara Jaques at Unifor Legal Services was sent this by mail and email notice on September 19, 2019. (Documents #52 & 53)

24. On October 11, 2019, Peter Conway had a telephone conference with Mr. Ronald Reaume, the lawyer at Unifor Legal Services Plan assigned to the Jansen Estate.

25. On October 22<sup>nd</sup>, Mr Conway received a letter from Mr. Reaume. As a result, Mr. Conway and Mr. Reaume conferred by telephone. During the conversation, Mr. Reaume stated that it was unlikely that the estate would become involved in the Henry Ford litigation.

26. On October 25, Mr. Reaume had another telephone conversation with Mr. Conway. He stated that he had conferred with the fiduciary for Mr. Jansen's

estate and had been directed to take no action regarding the Henry Ford litigation.

Based on the foregoing, and with the Court being otherwise fully advised in the premises;

IT IS HEREBY ORDERED that Erika Johnson who seeks immediate distribution of these funds in their entirety, shall receive the funds in the Henry Ford Health System Retirement Savings Plan that relate to Erna Herberholz as soon as practicable upon the foregoing providing that plan with information sufficient to process same.

IT IS FURTHER ORDERED that the Estate of Erna Herberholz who seeks immediate distribution of these funds in their entirety, shall receive the funds in the Henry Ford Health System Pension Plan that relate to Erna Herberholz, as soon as practicable upon the foregoing providing that plan with information sufficient to process same.

IT IS FURTHER ORDERED that the Anna Herberholz (Anton having died during the pendency of this case, who seek immediate distribution of these funds in their entirety, shall receive the funds in the Henry Ford Health System Heritage 403(b) Plan administered by Empower Retirement that relate to Erna Herberholz, as soon as practicable upon the foregoing providing that plan with information sufficient to process same.

IT IS FURTHER ORDERED that upon the payment of the money as specified in this order, Henry Ford Health System, The Henry Ford Health System Retirement Savings Plan, The Henry Ford Health System Pension Plan, and the Henry Ford Health System Heritage 403(b) Plan administered by Empower Retirement shall be relieved of any further obligation of any sort whatsoever with regard to the funds held in these plans on behalf of Erna Herberholz.

Date: January 21, 2020

/s/Terrence G. Berg

TERRENCE G. BERG

United States District Judge

**Tendered by:**

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**Agreed as to form:**

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